



COUNTY OF LOS ANGELES  
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RAYMOND G. FORTNER, JR.  
County Counsel

August 7, 2008

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**SETTLEMENT OF CONDEMNATION CASE  
PEOPLE OF THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE  
DEPARTMENT OF TRANSPORTATION v. LOS ANGELES COUNTY FLOOD  
CONTROL DISTRICT, LOS ANGELES SUPERIOR COURT CASE NUMBER  
BC 190642, AND FOUR OTHER CONSOLIDATED LOS ANGELES SUPERIOR COURT  
CASES INVOLVING THE SAME PARTIES  
FIFTH SUPERVISORIAL DISTRICT (3 VOTES)**

**SUBJECT:**

The settlement of five consolidated condemnation actions by the People of the State of California ("State") against the Los Angeles County Flood Control District ("District") to acquire rights for freeway construction and use in three flood control channels which are transversed by the extension of the 210 Freeway. The three channels are known as Marshall Canyon, Emerald Wash, and Live Oak Wash. As part of the settlement, the State will grant the District various rights in State property to allow the flood control operations to continue. Two flood control channels, Marshall Canyon and Emerald Wash, now cross above the freeway in flumes or large metal channels as overpasses. The freeway has been constructed over Live Oak Wash, a covered storm drain. The flood control function of the three channels has not been reduced.

**IT IS RECOMMENDED THAT YOUR BOARD:**

Authorize the County Counsel's Office to settle the referenced five consolidated eminent domain lawsuits by accepting total payment in the amount of \$136,000, plus interest from July 25, 1998, to the date of payment, and stipulating to the judgment in condemnation.

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

A proposed settlement of this consolidated condemnation action has been reached with representatives of the State Department of Transportation. Your Board's authorization is now required to accept the agreed compensation from the State and execute the stipulation for judgment in condemnation.

The Court ordered these consolidated cases to be mediated and the mediation was conducted by A.J. Hazarabedian, a well-respected eminent domain attorney and mediator. After hearing conflicting appraisal testimony and legal arguments, Mr. Hazarabedian recommended that the State pay \$136,000 in total compensation for all five consolidated cases, plus interest on that sum from the date of possession, July 25, 1998, until the date of payment, plus the conveyance from the State to the District of the various property rights necessary for the District to maintain the proper hydraulic flow in the three flood control channels.

The State representatives accepted the mediator's settlement recommendation subject to obtaining the necessary approvals from the State. District representatives accepted the recommendation of the mediator subject to approval by your Board.

The Department of Public Works concurs with the County Counsel that the proposed settlement is fair and reasonable and would save the significant litigation costs required to present this case to a jury.

### **Implementation of Strategic Plan Goals**

This settlement is consistent with the Strategic Plan Goal of Service Excellence because the extension of the 210 Freeway improved traffic in the area, while the ability of the three channels to control flood waters has not been reduced. The settlement is also consistent with the goal of Fiscal Responsibility in that the money payable to the District, with interest for about ten years, is fair compensation for the flood control improvements which were acquired or modified by the State for the extension of the freeway.

### **FISCAL IMPACT/FINANCING**

The compensation will be deposited with the District.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

Article I, section 19, of the California Constitution and the Eminent Domain Law (California Code of Civil Procedure, Part 3, Title 7) require that the owner of property condemned by a public agency be compensated for the fair market value of the property interests taken.

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This requirement of just compensation applies to the condemnation of property owned by a private entity as well as property owned by a public entity like the District.

### **ENVIRONMENTAL DOCUMENTATION**

The State's acquisition of the District's property by condemnation does not involve the exercise of discretion by the District and, therefore, the stipulation to a judgment in condemnation is not a project subject to CEQA.

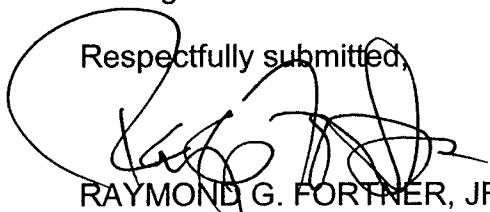
### **IMPACT ON CURRENT SERVICES**

The flood control capacity of the three channels has not been reduced.

### **CONCLUSION**

The proposed settlement is fair to both parties and is in the best interest of the District. It is requested that the Executive Officer, Board of Supervisors, return one conformed copy of this action to the County Counsel and two to the Department of Public Works, Mapping & Property Management Section.

Respectfully submitted,



RAYMOND G. FORTNER, JR.  
County Counsel

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c: William T Fujioka, Chief Executive Officer  
Chief Executive Office

Sachi A. Hamai, Executive Officer  
Board of Supervisors

Dean D. Efstathiou, Acting Director  
Department of Public Works